



"Ryan Call"
<ryan@cologop.org>
05/04/2012 06:33 AM

To <aboniewicz@fec.gov>
cc <ryan@cologop.org>, "Richard Westfall"
<RWestfall@halewestfall.com>
bcc

Subject Colorado Republican Party Response to DFAR

History: This message has been forwarded.

May 3, 2012

Mr. Alex R. Boniewicz, Audit Manager
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Sent via overnight delivery; copy via email to aboniewicz@FEC.gov

Re: Colorado Republican Federal Campaign Committee, FEC ID No. C00033134

Dear Mr. Boniewicz,

In accordance with the procedural rules set forth in 11 CFR Part 111 and other applicable federal laws and regulations, the Colorado Republican Federal Campaign Committee (the "Committee") respectfully withdraws its request for the opportunity for a hearing before the Federal Election Commission prior to the Commission's adoption of a final audit report.

The Colorado Republican Federal Campaign Committee has reviewed the Interim Audit Report and the Draft Final Audit Report prepared from the audit of the Committee covering the period from January 1, 2007 to December 31, 2008, and is pleased to provide this letter as a formal response to the same. The Committee has also reviewed the itemized schedules, worksheets and analysis of transfers and certain expenditures and specific disbursements provided that the Audit Division has relied upon to assert that the Committee has overfunded the non-federal share of allocable activity through the Committee's sponsored allocation account during the audit period in question.

The Audit Division asserts that a total of \$158,845.26 was overfunded to the allocations account from non-federal accounts. (See "Non Federal Overfunding" worksheet, H3 Analysis tab, line 441). Adjustments and transfers totaling \$8,120 from the allocations account back to the Victory 2002 Account #214-555-4233 and \$19,000 in payments made for non-federal expenditures with state funds were identified by the Audit Division to reduce the total alleged overfunding of the allocations account to \$131,725.26. (See "Non Federal Overfunding" worksheet, H3 Analysis tab, lines 443-452).

Upon review further of the Audit Division worksheets, the Audit Division identified \$147,046.00 in 44 unreported transfers from non-federal accounts not disclosed or under-reported on Schedule H3. \$9,300.00 of the \$147,046.00 in transfers from non-federal accounts is from seven unreported transfers from PAC Account # 214-556-3313 and \$1,569.80 is from two unreported transfers from Small Donor Committee Account # 366-573-2840. (See "Non Federal Overfunding" worksheet, H3 Analysis tab,

column C and column F). \$136,376.20 in unreported transfers originating from Victory 2002 Account #214-555-4233 was also identified by the Audit Division. (See "Non Federal Overfunding" worksheet, H3 Analysis tab, column C and column F). "Victory 2002 Account #214-555-4233" is indeed a non-federal (state) account, and was identified as such on Exhibit I ("Committee Background and Internal Control Questionnaire") disclosed to the Audit Division as part of the initial audit field work.

The Committee has carefully reviewed each of the undisclosed transfers from the PAC Account # 214-556-3313, from the Small Donor Committee Account # 366-573-2840, and from the Victory 2002 Account #214-555-4233, which correspond to the state Political Committee, state Small Donor Committee, and the state Political Party Committee accounts, respectively, as maintained by the Committee as non-federal accounts or separate segregated funds.

By carefully comparing the disclosures of the Committee in reports filed with the Colorado Secretary of State for the non-federal committees and separate segregated funds maintained by the Committee during the audit period, the Committee has determined with certainty that each of these previously unreported transfers was for state-related expenditures that were properly and fully disclosed as expenditures on state campaign finance reports filed by the Committee with the Colorado Secretary of State. Enclosed please find a detailed schedule of each previously undisclosed transfer from each of the various non-federal accounts and the corresponding itemized description of the expenditure(s) and payee(s) described in the Committee's state campaign finance reports, along with a copy of the corresponding state campaign finance reports as filed, individually labeled and marked for the Audit Division's convenience. In addition, a copy of a spreadsheet workbook and a copy of all relevant non-federal (state) campaign finance disclosures as filed by the Committee with the Colorado Secretary of State will be sent in electronic form via email.

The Committee acknowledges that non-federal funds were transferred from the state PAC Account in the amount of \$9,300.00, from the state Small Donor Committee Account in the amount of \$1,569.80, and from the state Political Party Committee account in the amount of \$136,376.20 to the Committee's federal allocations account, and that 100% in corresponding non-federal activity was subsequently paid out of the Committee's federal allocations account during the period in question. The Committee further acknowledges that such expenditures through the allocations account were in error, as the Committee's prior action was based upon a misunderstanding of the legal effect of 11 C.F.R. 106.7(f)(1)(ii). At the time of the transfers and expenditures, the Committee and the Committee's accountants had understood that the transfer of non-federal funds and the subsequent payment of 100% in non-federal expenses thereafter through its allocations account was not prohibited.

Having contacted certain members of the Committee staff responsible for making expenditures and managing the financial books and accounts at the time, the current officers of the Committee were informed that for certain key periods when a substantial number of checks were being written by the Committee, the Committee staff did not have bank checks available from the various non-federal accounts, but did have bank checks for the allocations account. Rather than incurring the expense to purchase and the delay in receiving bank checks for each of the various federal and non-federal accounts maintained by the Committee at that time, the Committee staff chose to simply transfer funds electronically with the assistance of the Committee's accountant from the non-federal accounts into the allocations account, and from there make all expenditures.

The non-federal (state) funds used in each of these 44 identified transactions were initially solicited by and contributed to the non-federal committees and accounts maintained by the Committee in

accordance with Colorado's campaign finance laws and limits. The non-federal (state) character of the funds is not in doubt, and all state-related expenditures were properly disclosed by the Committee in detailed state campaign finance disclosures filed with the Colorado Secretary of State with itemized descriptions that make clear the character of the state expenditures were not federal election activity. The failure to disclose these transfers from the state PAC account, state Small Donor Committee account, and state Political Party Committee account on the federal filings with the Federal Election Commission was the result of the Committee's belief that it had fully satisfied its filing requirements by disclosing the corresponding non-federal expenditures made with entirely state funds on reports with the Colorado Secretary of State, with the allocations account serving as simply a pass-through account, with the transactions themselves disregarded.

The Federal Election Commission's proposed remedy of reimbursing the non-federal (state) accounts of the Colorado Republican Party in the amount of \$131,725.26 or more is an inadequate and improper remedy to the errors made in reporting and the pass-through use of the Committee's allocations account. The bank records and state campaign finance disclosures make clear that the character of the funds in question was entirely non-federal, the contributions used and the expenditures made were for entirely non-federal expenditures, and such non-federal expenditures were fully reported and disclosed in campaign finance filings with the Colorado Secretary of State. The Committee cannot now—four years after the transactions in question—convert \$131,725.26 or more in federal funds into to state funds without doing significant harm to the character of the funds in question. The errors of the Committee were committed in the use of the allocations account as a pass-through account, and the failures by the Committee in not disclosing such transactions on Schedule H3 and other relevant federal reports, and not in the source or nature of the funds used.

As a result of the Audit and the accompanying legal analysis provided by the Federal Election Committee's legal staff, the Committee has since enacted significant changes to the use of its allocations account, and will no longer make any transfers of non-federal funds to make payments for 100% non-federal expenses. In addition, and as also explained in the legal analysis provided by the Federal Election Committee regarding the legal effect of 11 C.F.R. 106.7(f)(1)(ii), the Committee will also no longer make transfers of federal funds and payments for 100% federal expenses through its federal allocations account. Moreover, the Committee has recently retained new accountants that have a much greater degree of expertise and experience in complying with all relevant campaign finance laws, regulations, and procedures.

If the Audit Division or other authorized representatives from the Federal Election Commission so direct, the Committee stands ready to instruct its accountants to amend its federal reports from 2007-2008 in order to disclose the \$147,046.00 in transfers from the state PAC account, the state Small Donor Committee account, and the state Political Party Committee account through the Committee's allocations account on an amendment to Schedule H3 for the period in question.

The Committee has also instructed its accountants to file the necessary amendments to its disclosures for 2007 to correct the understated receipts by \$70,809 and to correct the understated disbursements by \$61,104 in 2007, and to accurately disclose the cash-on-hand of the Committee in its federal accounts as of the beginning and the end of the 2007 calendar year. The Committee has also instructed its accountants to file such additional amendments or audit adjustments to the reported cash-on-hand balances for its federal and non-federal accounts to accurately report the cash-on-hand balances reported in its most recent filings, reconciled to the Committee's current bank statements.

The Committee stands ready to properly address all others other matters raised in the Interim Audit Report and/or in the Draft Final Audit Report, and is committed to full compliance with all applicable and material provisions of federal campaign finance law and the disclosure regime under the jurisdiction of the Federal Election Commission.

The Committee looks forward to your favorable reply, as well as the opportunity to make all necessary amendments to its disclosure reports intended to address the alleged misstatements of financial activity identified during audit fieldwork and in the Draft Final Audit Report. The undersigned may be best reached via email at ryan@cologop.org or at (303) 758-3333.

Sincerely,

Ryan R. Call, Esq.
Chairman

Colorado Republican Committee
5950 S. Willow Drive, Suite 301
Greenwood Village, Colorado 80111
(303) 758-3333
www.cologop.org

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workbook for FEC audit report.xlsx



Non Federal Overfunding (FEC).xlsx



"Ryan Call"
<ryan@cologop.org>
05/04/2012 06:52 AM

To <aboniewicz@fec.gov>
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<RWestfall@halewestfall.com>
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Subject Colorado Republican Party Response to DFAR - exhibits

Itemized summary of non-federal expenditures and previously undisclosed transfers to the Committee allocations account during the audit period in question attached.

Sincerely,

Ryan R. Call, Esq.
Chairman

Colorado Republican Committee
5950 S. Willow Drive, Suite 301
Greenwood Village, Colorado 80111
(303) 758-3333
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Itemized Analysis of Non-Federal expenditures.docx



"Ryan Call"
<ryan@cologop.org>
05/04/2012 06:42 AM

To <aboniewicz@fec.gov>
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Subject Colorado Republican Party Response to DFAR - exhibits

Relevant state campaign finance reports for the state Political Party Committee during the audit period in question as filed with the Colorado Secretary of State attached.

Sincerely,

Ryan R. Call, Esq.
Chairman

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Greenwood Village, Colorado 80111
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|  StateRpt-2006-12-06 to 2007-03-31.pdf |  StateRpt-2007-04-01 to 2007-06-30.pdf |  StateRpt-2007-07-01 to 2007-09-30.pdf |
|  StateRpt-2007-10-01 to 2007-12-31.pdf |  StateRpt-2007-12-31 amendment.pdf |  StateRpt-2008-01-01 to 2008-04-25.pdf |
|  StateRpt-2008-04-26 to 2008-05-26.pdf |  StateRpt-2008-05-05 amendment.pdf |  StateRpt-2008-05-27 to 2008-07-02.pdf |
|  StateRpt-2008-07-03 to 2008-07-16.pdf |  StateRpt-2008-07-07 amendment.pdf |  StateRpt-2008-07-17 to 2008-07-30.pdf |
|  StateRpt-2008-07-31 to 2008-08-27.pdf |  StateRpt-2008-08-04 amendment.pdf |  StateRpt-2008-08-28 to 2008-09-10.pdf |
|  StateRpt-2008-09-11 to 2008-09-24.pdf |  StateRpt-2008-09-25 to 2008-10-08.pdf |  StateRpt-2008-10-09 to 2008-10-22.pdf |
|  StateRpt-2008-10-29 to 2008-11-30.pdf |  StateRpt-2008-12-01 to 2009-03-31.pdf |  StateRpt-2009-04-15 amendment.pdf |



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<RWestfall@halewestfall.com>
bcc

Subject Colorado Republican Party Response to DFAR - exhibits

Relevant state campaign finance reports for the state PAC and the state Small Donor Committee during the audit period in question as filed with the Colorado Secretary of State attached.

Sincerely,

Ryan R. Call, Esq.
Chairman

Colorado Republican Committee
5950 S. Willow Drive, Suite 301
Greenwood Village, Colorado 80111
(303) 758-3333
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StatePAC-2008-08-18 to 2008-09-10.pdf



StatePAC-2008-09-11 to 2008-09-24.pdf



StatePAC-2008-09-25 to 2008-10-08.pdf



StatePAC-2008-10-09 to 2008-10-22.pdf



StateSDC-2008-07-31 to 2008-08-27.pdf



StateSDC-2008-08-28 to 2008-09-10.pdf



StateSDC-2008-09-11 to 2008-09-24.pdf